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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/074,484

02/11/2002

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042390.P12916

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06/26/2009

INTEL/BSTZ

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EXAMINER

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ART UNIT

PAPER NUMBER

2424

MAIL DATE

DELIVERY MODE

06/26/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Response to Arguments

Applicant's arguments filed 6/9/2009 have been fully considered but they are not persuasive.

Applicant argues the claim requires associating a second predefined unique symbol with a second type of supplementary content. This is not done in the cited reference. The PIP symbol has nothing to do with supplementary content and only has to do with the original content and whether content is displayed in two images. Further, it is required that the predefined unique symbol is provided in association with a listing and a program schedule. This also does not happen (page 7, paragraph 2). This argument is respectfully traversed.

It is noted that the Examiner need not give patentable weight to non functional descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. See *In re Lowry*, 32 F.3d 1579, 1583-84 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 1338 (Fed. Cir. 2004) and BPAI recent final decision in *Ex parte Curry*, 2005-0509 (BPAI 2005), 84 USPQ2d 1272 (Affirmed, Rule 36, Fed. Cir., slip op. 06-1003, June 2006). In this case, the limitation ""first predefined unique symbol" or "second predefined unique symbol" are drawn to descriptive material not functionality related to the method. Thus, the Examiner does not need to give patentable weight to nonfunctional descriptive material, as it "will not distinguish the invention from the prior art in terms of patentability." *In Re Nga*, at 1339. Regardless of

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whether the combination of the references teach “first predefined unique symbol” or “second predefined unique symbol”, the limitation will not differentiate the claimed invention from the prior art.

Nonetheless, the Examiner has found that the teaching of associating a symbol for television and chat, etc. with second type of supplemental content such as television content and/or chat content of Stautner meets the claimed "associating a second predefined unique symbol with a second type of supplementary content" (see figures 2-3, col. 5, lines 25-30, col. 7, lines 35-50 and final office action, pages 7-8, bridge paragraph). Stautner also discloses unique symbols (see figures 2-5) are provided in association with listings on a program guide screen with program schedule reads on the predefined unique symbol is provided in association with a listing and a program schedule.

Applicant also argues Farwell has nothing to do with two-screen interactivity mode on the display. The two screen static web mode is described in the present specification as involving two screens, a television screen and a computer display that are used to present the content in conjunction with the program. This does not happen in the cited reference.... he does not have anything that indicates that the supplementary content needs two different devices to display it (page 7, paragraph 3). This argument is respectfully traversed.

According to M.P.E. P 2106 II, C, "limitations appearing in the specification but not recited in the claim should not be read into the claim. *E-Pass Techs., Inc. v. 3Com Corp.*, 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily). *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also *In re Zletz*, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989). In this case, neither limitation "the two-screen static web mode involving two screen, a television screen and a computer display that are used to present the content in conjunction with the program" nor "the supplemental content needs two different devices to display it..." is recited in the claims.

In the final office action, the examiner relies on Stautner's disclosure of interactivity display screen with multiple screens for displaying chat content, interactive program guide content, television content, and other supplementary content (see figures 2-5, col. 5, lines 25-30, col. 7, lines 35-50 and discussion in Final office action, pages 7-8) meets the claimed "two screen interactivity mode"

In response to applicant's arguments against the references individually (i.e., Farwell has nothing to do with two-screen interactivity mode on the display), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, the Examiner relies on Stautner for the teaching of associating predefined symbol with a type of supplementary content; and two-screen interactivity mode;

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program schedule that includes a listing for a television program. The examiner relies on Farwell for the teaching of a symbol to indicate two-screen mode.

Therefore, the combination of Stautner with the teaching of symbol indicate two-screen mode taught by Farwell, meets all features as recited in claim 1.

With respect to rejection of claim 14, Applicant argues the cited reference to Farwell has nothing to do with a second listing for a television program that has supplementary content (page 7). This argument is respectfully traversed.

As discussed in the Final Office action, pages 6-8, 11-12), the Examiner relies on Stautner for the teaching of a second predefined unique symbol associated with a second listing; the second listing is a listing for a television program that has supplementary content.

For the reasons given above, rejections on the claims 1, 4, 6-12, 14, 16-17, 20, 22-25 are sustained as indicated in the Final Office Action.

/Son P Huynh/

Primary Examiner, Art Unit 2424